

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2010-03**

**Joint Application of Granite Reliable Power, LLC and Brookfield Power Inc. for  
Approval to Transfer Equity Interests in Granite Reliable Power, LLC**

**Decision and Order Approving Transfer of Ownership Interest  
in Granite Reliable Power LLC**

**February 8, 2011**

**APPEARANCES: Harold C. Pachios, Esq. and Sigmund D. Schutz, Esq. of Preti Flaherty for Brookfield Renewable Power, Inc., Douglas L. Patch, Esq. for Granite Reliable Power, LLC, Peter C.L. Roth, Esq., Senior Assistant Attorney General as Counsel for the Public, Lisa Linowes for Industrial Wind Action Group, *pro se*, and Frederick King, Coos County Treasurer, *pro se*.**

**I. INTRODUCTION**

On July 15, 2009, the Site Evaluation Committee (“Committee”) issued a Certificate of Site and Facility permitting the siting, construction and operation of a wind turbine facility known as the Granite Reliable Wind Park in Coos County to Granite Reliable Power, LLC (“Certificate”). Granite Reliable Power, LLC (“GRP”) and Brookfield Renewable Power, Inc. (“Brookfield”) (jointly referred to as “Applicants”), now seek approval of the Committee to transfer the 75% membership interest in GRP currently held by Noble Environmental Power, LLC (“Noble”) to Brookfield (“Joint Application”). In addition, the Applicants request that the Committee modify the conditions of the Certificate to permit future changes in ownership of GRP without Committee approval so long as Brookfield maintains a controlling interest in GRP. The Applicants also requested that the Committee review the Application on an expedited basis in order to ensure that the Project will be constructed by the end of 2011 and will qualify for

certain federal investment tax credit programs pursuant to Section 1603 of the American Recovery and Reinvestment Act of 2009.

## II. HISTORY OF THE PROJECT

On July 15, 2008, GRP petitioned the Committee for a Certificate of Site and Facility in order to site, construct, and operate the Granite Reliable Power Wind Park generally consisting of the following: (1) thirty-three (33) wind turbines, each with a nameplate rating of three (3) megawatts (“MW”), for a total nameplate capacity of ninety-nine (99) MW; (2) an electrical substation with a nearby maintenance building and lay down yard; (3) an interconnection switching station; (4) a collection line; (5) an electrical interconnection line; and (6) approximately twelve (12) miles of new roads and the upgrading of approximately nineteen (19) miles of existing access roads (“Facility”)<sup>1</sup>. The Facility will be located in the unincorporated places of Dixville, Ervings Location, Millsfield and Odell, and the incorporated town of Dummer. On July 15, 2009, the Committee granted GRP’s application and issued a Certificate of Site and Facility with Conditions to GRP.

The Certificate issued by the Committee to GRP provides, *inter alia*:

“this Certificate is conditioned on the present ownership structure of the Applicant, *to wit* the Applicant is owned by Noble Environmental Power, LLC (75%) and Freshet Wind Energy, LLC (25%), and neither the Applicant, nor the Applicant’s assets shall be transferred by sale or other method to any other person or entity without the prior written approval of the Subcommittee. In the event of unapproved sale, this Certificate shall be null and void.”

*See*, Order and Certificate of Site and Facility, Granite Reliable Power, LLC, 2008-04, 2-3 (July 15, 2009).

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<sup>1</sup> A more specific detail of the components of the Facility and the details of construction and operation are contained in the original Application for a Certificate of Site and Facility, the Decision Granting Certificate of Site and Facility and the Certificate of Site and Facility, all of which are contained in Site Evaluation Committee Docket No. 2008-04.

GRP, Counsel for the Public, New Hampshire Fish and Game Department, and the intervenor, Industrial Wind Action Group (“IWAG”), filed Motions for Rehearing, Reconsideration and/or Amendment. On November 9, 2009, the Committee partially granted New Hampshire Fish and Game Department’s Motion for Rehearing and denied all other Motions for Rehearing, Reconsideration and/or Amendments. *See*, Order Denying Motions for Rehearing Filed by the Applicant, Counsel for the Public and Industrial Wind Action Group, and Order Granting in Part, and Denying in Part, Motion for Rehearing filed by New Hampshire Fish and Game dated November 9, 2009, Site Evaluation Committee Docket No. 2008-04. IWAG appealed the Committee’s decision to the New Hampshire Supreme Court. On April 15, 2010, the Supreme Court declined to consider IWAG’s appeal. *See*, Appeal of Industrial Wind Action Group, Docket No. 2009-0889 (Apr. 15, 2010).

Consistent with the terms of the Certificate the manufacturing of certain wind turbine components and interconnection switchyard equipment commenced in 2010. *See*, Joint Application at p. 7.

### **III. PROCEDURAL HISTORY OF THE JOINT APPLICATION**

On December 2, 2010, the Applicants filed the Joint Application seeking approval of the transfer of 75% of ownership interest currently owned by Noble to Brookfield. Joint Application, p.1. In addition, the Applicants request that the Committee modify the conditions of the Certificate so that it will require the Committee’s approval of a change in the ownership of GRP only where such transfer of ownership may cause Brookfield to lose its controlling interest in GRP. Joint Application, p. 20. Finally, the Applicants request that the Committee review the Application on an expedited basis in order to ensure that the Project will be constructed by the

end of 2011 and will qualify under Section 1603 of the American Recovery and Reinvestment Act of 2009. Joint Application, pp. 3, 5.

On December 3, 2010, the Joint Applicants filed an Application for Approval of the transfer of the ownership interests in GRP to Brookfield. The Applicants also requested that the Committee deem the construction financing condition in the Certificate to have been met as a result of the transaction, which will make available Brookfield's considerable financial resources to the benefit of the Project.

On December 6, 2010, the Committee acknowledged receipt of the Application. On December 17, 2010, the Committee issued an Order and Notice of Pre-Hearing Conference and Public Hearing. On December 30, 2010, Brookfield filed an Affidavit of Publication showing that notice had been given of a pre-hearing conference set for January 3, 2011.

On January 3, 2011, the Committee convened a Pre-Hearing Conference. On January 7, Counsel to the Committee issued a Report of Pre-Hearing Conference, which the Chair of the Committee approved on January 11. On January 18, 2011, the Committee convened a Technical Session. On January 19, 2011, the Committee granted motions to intervene by Lisa Linowes of the Industrial Wind Action Group and Frederick W. King, Coos County Treasurer. Also on January 19, 2011, the Committee entered an Order on an Assented-to Motion for Protective Order and Confidential Treatment.

On January 31, 2011, the Committee held the final hearing. The Joint Applicants presented the Pre-filed Testimony of Kim Osmars, Chief Operating Officer and Senior Vice President of U.S. Operations of Brookfield Renewable Power, Inc., Michael R. Cutter, Vice President of Engineering and Development for Brookfield Renewable Power, Inc., and Jason M. Spreyer, Senior Vice President, Corporate Finance of Brookfield Renewable Power, Inc. The

witnesses were cross-examined as a panel by Counsel for the Public and Ms. Linowes and also took questions from the Committee. The Committee also took public comment from Thomas Colgan, of Wagner Forest Management and Frederick King, Coos County Treasurer. Mr. Colgan and Mr. King both support the relief requested in the Joint Application. Mr. King also advised the Committee that the Coos County Commissioners support the relief requested in the Joint Application.

#### **IV. THE PROPOSED TRANSACTION**

GRP is currently owned by Noble (75%) and Freshet Wind Energy, LLC (25%) (“Freshet”). Joint Application, p. 7. Noble has entered into a Purchase and Sales Agreement with Brookfield whereby Noble agreed to transfer its interest in GRP to Brookfield. Joint Application, p. 7. However, Noble’s interest in GRP will not be transferred directly to Brookfield, but will be transferred to Brookfield’s affiliate, BAIF Granite Holding, LLC (“BGH”). Joint Application, p. 7. BGH will be formed at the financial closing and thereafter will be registered to do business in New Hampshire. Transcript, p. 92<sup>2</sup>. Brookfield intends to create BGH for the sole purpose of acquiring and holding the Noble’s ownership interest in GRP. Joint Application, p. 7; Testimony of Jason M. Spreyer, pp. 3, 6. BGH will be a direct subsidiary of BAIF U.S. Renewable Power Holdings II, LLC. Testimony of Jason M. Spreyer, p. 6. BAIF U.S. Renewable Power Holdings II, LLC, in turn, will be owned by the following entities: (1) BAIF-Brookfield U.S. Renewable Power AIV II, LLC (22.1%); (2) BAIF #2 (Delaware PIV), L.P. (8.6%); and (3) BAIF – U.S. Renewable Power AIV, LLC (69.3%). Testimony of Jason M. Spreyer, p. 6, Exh. Spreyer – 2.

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<sup>2</sup> All references to Transcript refer to the transcript of the adjudicatory proceeding held on January 31, 2011.

BGH's acquisition of Noble's membership interest in GRP will be financed by equity provided by Brookfield Americas Infrastructure Fund (Delaware PIV) GP, L.P. ("BAIF"), an entity holding approximately \$2.7 billion in cash and commitments readily available for the investment in the Project and managed by Brookfield's principal, Brookfield Asset Management Inc. ("BAM"). Joint Application, p. 12. BAIF's capital will also secure 100% of the construction cost of the Project and, although Freshet will have the right to invest 25% of the capital requirements of the Project upon capital calls made by GRP, Brookfield is prepared to fund 100% of these construction costs. Joint Application, pp. 12-13. Ultimately, Brookfield will invest BAIF's equity in GRP and will operate the Project through BGH. Testimony of Jason M. Spreyer, p. 8.

Despite the somewhat complicated funding and ownership structure of BGH, Brookfield Renewable Power, Inc, and its affiliates have assured the Committee that they collectively stand behind the representations made in the Joint Application and that they will collectively ensure that GRP abides by all of the terms and conditions of the Certificate. Transcript, pp. 171-172.

## **V. STANDARD OF REVIEW**

RSA 162-H: 5, I requires the Committee's approval of transfer or assignment of a Certificate to any other person or entity. In addition, under the terms of the Certificate issued to GRP in docket No. 2008-004, GRP's assets shall not be transferred to any person or entity without prior approval of the Committee. *See*, Order and Certificate of Site and Facility, Granite Reliable Power, LLC, 2008-04, pp. 2-3 (July 15, 2009).

To approve a transfer in ownership, the proposed owner should demonstrate by the preponderance of evidence that it possesses adequate financial, managerial and technical capabilities to assure that the conditions of the Certificate are continuously met. *See, e.g.*, RSA

162-H:16, IV (a); *see also*, Decision and Order Approving Transfer, Newington Energy, LLC and North American Energy Alliance, LLC, 2008-01 (April 18, 2008). “Ongoing environmental compliance and the safe operation of the facility are of the utmost concern to the Committee and the State of New Hampshire.” *See*, Decision and Order Approving Transfer, Newington Energy, LLC and North American Energy Alliance, LLC, 2008-01 (April 18, 2008). The Committee will review the financial, technical and managerial experience of the proposed new owner in order to determine whether the proposed owner possesses adequate financial, managerial and technical capabilities to assure that the conditions of the Certificate are continuously met.

## **VI. ANALYSIS AND FINDINGS**

The Committee finds that Brookfield has demonstrated by the preponderance of evidence its financial, managerial and technical capabilities to construct and operate the Facility in accordance with the Certificate issued to GRP by the Committee in SEC Docket No. 2008-04.

### **A. TRANSFER OF OWNERSHIP INTEREST IN GRP**

#### **1. Financial Capacity**

In order receive the approval of the transfer of the ownership interest from the Committee, the Applicants must demonstrate that the purchasing party has sufficient financial capability so that GRP can “assure construction and operation of the Facility in continuing compliance with the terms and conditions of the Certificate.” *See, e.g.*, RSA 162-H: 16, IV (a).

The Applicant asserts that BGH’s corporate structure “ensures that financing for the project can be completed by Brookfield and its co-investors.” Testimony of Jason M. Spreyer, p. 7. Specifically, Brookfield’s principal, BAM, a global asset management company managing over \$100 billion in assets with a market capitalization of \$17 billion and enterprise value of \$43

billion, manages BAIF, a company with approximately \$2.7 billion in cash and commitments readily available for investment in the Project. Joint Application, pp. 11-12; Testimony of Jason M. Spreyer, pp. 5, 8. BAIF will fund the acquisition of Noble's ownership interest and 100% of the Project's equity capital requirement and is ready to fund 100% of the Project's construction costs. *See*, Joint Application, pp. 12-13; Testimony of Jason M. Spreyer, p. 7.

In addition, the Applicants assert that Brookfield has sufficient financial capacity to construct and operate the Facility because it has substantial experience in financing and developing projects of similar and greater scale. Testimony of Jason M. Spreyer, at pp. 8, 11. Specifically, Brookfield owns, operates and manages assets with approximate value of \$12 billion in Canada, the United States of America, and Brazil. Joint Application, p. 10; Testimony of Jason M. Spreyer, at p. 4. As to renewable power investments, Brookfield's portfolio includes three operating wind projects in Canada and one of the largest privately owned hydroelectric power generating portfolios in the world consisting of 165 conventional hydroelectric generating facilities (as well as one hydroelectric pumped storage facility) on 65 river systems. Joint Application, pp. 10-11; Testimony of Jason M. Spreyer, at 4. The installed capacity of Brookfield's portfolio totals more than 4,200 Megawatts (MW) producing more than 16,000 gigawatt hours of energy annually. Joint Application, pp. 10-11. Brookfield's installed capacity in the United States consists of 100 hydroelectric facilities in nine states. In New Hampshire alone Brookfield operate eight hydroelectric facilities along the Androscoggin River with a capacity of 45 MW. Joint Application, p. 11; Testimony of Jason M. Spreyer, pp. 4-5. Brookfield's extensive portfolio of projects demonstrates a significant financial acumen and capacity to construct and operate renewable energy facilities.

Brookfield's financial capacity to construct and operate the Facility in accordance with the Certificate is also demonstrated by the unaudited Consolidated Financial Results dated June 30, 2010, filed with the Joint Application. *See*, Joint Application, Appx. B. Brookfield represents that it has since prepared additional financial statements and that there has been no material change in its financial condition since filing and that there have been no adverse events that will materially affect its financial condition. Transcript, pp. 94-95. As a publicly held Canadian company, Brookfield's financial statements are available for public inspection in the Canadian System for Electronic Document Analysis and Retrieval ("SEDAR")<sup>3</sup>.

BGH through its principal BAIF has ample capital to contribute to GRP to construct the project in accordance with the requirements of the Certificate. BAIF retains most of the \$2.7 billion in cash and commitments provided by Brookfield and managed by Brookfield for BAIF's investors readily available for investment. Testimony of Jason M. Spreyer, p. 7. The estimated cost of construction of the Facility in accordance with the terms of the Certificate is approximately \$229 Million. Transcript, p. 98. Brookfield and BGH enjoy a financial capacity that clearly exceeds the financial capacity of Noble at the time that we issued the Certificate in this matter.

Brookfield also has the financial capacity to guarantee continuous compliance with the conditions of the Certificate. Brookfield will make ongoing capital investments and cover the operating costs of the Project. Testimony of Jason M. Spreyer, p. 9. While Brookfield intends to construct the Facility from its existing assets, it is possible that, if beneficial to its investors and shareholders, Brookfield may employ third party financing. Testimony of Jason M. Spreyer, p. 11; Transcript, pp. 51-52. Nevertheless, it is undisputed that Brookfield has the ability to secure

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<sup>3</sup> SEDAR is the Canadian equivalent of EDGAR, the Electronic Data Gathering And Analysis Retrieval system operated by the United States Securities and Exchange Commission.

continuous financing of the Project where it already successfully financed various projects of similar magnitude and maintains substantial available assets. Testimony of Jason M. Spreyer, pp. 8, 11.

After consideration of all the documents, testimony, and evidence submitted, the Committee finds that the Applicants have demonstrated by the preponderance of evidence that Brookfield has sufficient financial capacity to construct and operate the Facility through GRP in compliance with the terms and conditions of the Certificate of Site and Facility issued in SEC Docket No. 2008-04.

## **2. Managerial Capacity**

In order to approve the transfer of ownership the Committee must find that the Applicants demonstrated by the preponderance of evidence that the purchasing party has sufficient managerial capacity to ensure that GRP constructs and operates the Facility in accordance with the terms of the Certificate. *See, e.g.*, RSA 162-H: 16, IV (a). In this case the Applicants have met that burden.

As proposed, the Project will be operated by Brookfield through BGH in accordance with an operations, maintenance and administration agreement. Testimony of Jason M. Spreyer, p. 8.

Brookfield's involvement in the Project will considerably enhance GRP's managerial capability because "Brookfield has a proven track record of successful management of renewable power plants at all stages of a project's life cycle." Joint Application, p. 17; Testimony of Kim Osmars, pp. 2-3. Specifically, the Applicants represent that Brookfield holds over 50 distinct licenses covering 100 hydroelectric facilities and maintains and operates these projects in compliance with federal and state permits, licenses and law. *See*, Joint Application, p. 18.

Brookfield has demonstrated substantial experience in managing wind projects, successfully operating three wind projects in Canada: (1) Prince I Wind Energy Project consisting of 66 1.5 MW wind turbines with installed capacity of 99 MW; (2) Prince II Wind Energy Project consisting of 60 1.5 MW wind turbines and installed capacity of 90 MW; and (3) Gosfield Wind Project consisting of 22 2.3 MW turbines with an installed capacity of approximately 50 MW. Joint Application, pp. 14-16.

In addition, Brookfield's capacity to manage a large scale wind project is demonstrated by its management of Prince Wind Energy Project in Northern Ontario. Testimony of Kim Osmars, p. 5. The Prince Project consists of 126 turbines with a combined installed capacity of 189 megawatts and is 75% bigger than the GRP project. Testimony of Kim Osmars, p. 5. The Prince Wind Energy Project was constructed within 15 months and has been operated by Brookfield's operating group since 2006. Testimony of Kim Osmars, p. 5-6.

As to the in-field management of renewable energy facilities located in the United States, Brookfield Renewable Power's U.S. Operations Headquarters is located in Marlborough, Massachusetts, from which it manages 100 renewable energy facilities, a number of active construction and development projects, a National System Control dispatch center, and approximately 400 employees. Joint Application, p. 19. Just in New Hampshire, Brookfield operates eight hydroelectric generating stations with a successful track record of safe and reliable operations and management. Testimony of Kim Osmars, pp. 5-6.

Finally, apart from Brookfield's capacity to manage the Project based on its general experience with the renewable power facilities, the Applicants specifically demonstrated Brookfield's capacity to manage the GRP Facility by identifying key members of the management team and demonstrating their extended experience in the management of power

companies of similar magnitude. *See*, Joint Application, Appendix E; Testimony of Kim Osmars, p. 9-10.

Taking into consideration Brookfield's extended experience in managing renewable power facilities including wind turbine facilities, the Committee finds that the Applicants demonstrated by a preponderance of the evidence that Brookfield enjoys the managerial capacity to construct and continuously operate the Facility in accordance with the Certificate.

### **3. Technical Capacity**

The Applicants are required to demonstrate by the preponderance of evidence that Brookfield's ownership of GRP will maintain or enhance the technical capacity to construct and operate the Project in compliance with the terms and conditions of the Certificate in order to receive the Committee's approval of transfer of the ownership interest. *See, e.g.* RSA 162-H:16, IV (a).

The Applicants assert that Brookfield has substantial technical capacity to construct and operate the Facility in light of Brookfield's construction and continuous operation of the Prince I Wind Energy Project, the Prince II Wind Energy Project, and the Gosfield Wind Project in full compliance with all applicable permits, rules, regulations, and law. Joint Application, pp. 13-15.

Brookfield is an experienced developer and operator of wind projects in northeastern North America. The Prince projects included 126 wind turbine generators creating a combined installed capacity of 189 MW at approximately \$383 million in capital cost (2006 dollars). Testimony of Michael Cutter, p. 6. By comparison, the GRP Wind Park involves just one quarter as many turbines. Brookfield managed the technical aspects of Prince's project development, interconnection, and operation. At the time of peak construction, Brookfield was

managing approximately 300 construction workers, including contractors and sub-contractors at the Prince project. Testimony of Michael Cutter, p. 6. The Prince project is located in a cold climate similar to that of the GRP site. Testimony of Michael Cutter, p. 6. The Prince project also involved similar geological formations as found in the GRP project area. Transcript, p. 27. Brookfield brought the Prince project to commercial operation in 15 months and integrated it into Brookfield's larger portfolio. Testimony of Michael Cutter, p. 6. Brookfield's operation of the Prince project has been in compliance with safety, engineering and market rules, regulations and requirements. Testimony of Michael Cutter, p. 6.

In addition Brookfield has developed and is operating other wind projects in North America. In October 2010, Brookfield completed the construction and commissioning of the 50 MW Gosfield Wind Project in Kingsville, Ontario at a cost of approximately \$142 million. Testimony of Michael Cutter, p. 7. Like the Prince project, the Gosfield project is located in a climate very similar to that of Coos County. Testimony of Michael Cutter, p. 7. The Gosfield Wind Project consists of 22 Siemens SWT 2.3 MW wind turbines, totaling 50.6 MW of installed capacity. *Id.* During its peak, the Gosfield project employed approximately 300 construction workers, including contractors and sub-contractors. After construction, Brookfield integrated the Gosfield Wind Project into its operations. *Id.* The Gosfield facility has been operated and maintained in compliance with safety, engineering, and power market requirements. Testimony of Michael Cutter, p. 7.

In October 2010, Brookfield commenced construction on the Comber Wind project, located in the town of Lakeshore, Ontario. Testimony of Michael Cutter, p. 7. Brookfield is also poised to commence construction on the Coram Wind Project in Tehachapi, California. The

Comber project is planned to develop 166 MW of wind energy. The Coram project is planned to develop 102 MW of wind energy. Testimony of Michael Cutter, p. 7; Transcript, pp. 87-89.

These projects demonstrate the technical capabilities that Brookfield will bring to the GRP Facility. The Applicants assert that Brookfield will coordinate the construction of the Project and will employ an “on-the-ground” technical team as well as a group of in-house advisors to guarantee construction and operation of the Facility in accordance with the Certificate. Testimony of Michael Cutter, at pp. 9-11. The general contractor for the project will be RMT, Inc. (“RMT”). RMT will operate in accordance with a Project Execution Plan. Testimony of Michael Cutter, p. 9. The Applicants have thoroughly researched RMT. RMT is a leader in the development, design, and construction of wind energy facilities and has been involved in the design and construction of over 3800 MW of wind energy capacity in the past decade. *See*, Joint Application, p. 9. In addition, the Applicants report that the turbine supplier, Vestas, will provide a two-year warranty for the turbines and technical support with service of the turbines in accordance with this warranty. Testimony of Michael Cutter, p. 12.

Based on the foregoing the Committee finds that Brookfield Renewable Power has sufficient technical capacity so that GRP will have the capacity to construct and operate the Facility in accordance with the Certificate.

#### **B. AMENDMENT OF THE CERTIFICATE**

The Order granting the Certificate to GRP was based on the ownership structure of GRP as it existed at the time. *See*, Order and Certificate of Site and Facility, Granite Reliable Power, LLC, 2008-04, 2-3 (July 15, 2009). The Applicants now seek an amendment of the Certificate to allow the transfer of ownership shares in GRP, without Committee approval, so long as Brookfield maintains a controlling interest in the company. The Applicants assert that

Brookfield may wish to exercise its right to make a capital contribution resulting in the shift of ownership ratio between or among members without the Committee's approval. Joint Application, p. 20; Testimony of Jason M. Spreyer, p. 11. Therefore, the Applicant requests that the Committee amend the ownership condition of the Certificate so that it will require the Committee's approval only if a proposed transaction would result in the loss of controlling interest in GRP by Brookfield. Joint Application, p. 20; Testimony of Jason M. Spreyer, p. 11.

The condition requiring Committee approval of a change in ownership in GRP is based upon the concern that the ownership of GRP remain with companies that have sufficient financial, technical and managerial capacity in order to ensure the construction and operation of the Facility in compliance with all of the terms and conditions of the Certificate. Brookfield brings a stronger financial and managerial foundation to the ownership of GRP. Under these circumstances the Committee does not see a need to approve changes in ownership of GRP so long as Brookfield maintains a controlling interest in GRP. It should be understood, however, that the term "controlling interest" as used in this Decision and Order includes managerial as well as financial control of GRP.

While the Applicants need not seek Committee approval to adjust the non-controlling interests in ownership, GRP shall be required to provide timely written notice to the Committee of all changes in ownership of non-controlling interests in GRP. Any proposed transfer of the controlling interest in GRP remains subject to the original provisions of the Certificate.

### **C. TERMS AND CONDITIONS APPLIED TO BROOKFIELD**

Throughout the pendency of this docket the Applicants have relied on the financial capacity, and the technical and managerial experience of Brookfield Renewable Power, Inc. and its affiliates. The Joint Application is accompanied by financial statements for Brookfield

Renewable Power, Inc. *See*, Joint Application, Appendix B. The Applicants rely on the experience of Brookfield Renewable Power, Inc. employees in order to demonstrate the depth of their managerial experience. *See*, Joint Application, Appendix E. The Applicants tout the history and corporate structure of Brookfield Renewable Power, Inc, in support of the relief requested in the Joint Application. *See*, Joint Application, Appendices C & D. The Joint Application itself is not filed or signed by BGH but is filed by Brookfield Renewable Power, Inc. On the other hand the subsidiary of Brookfield that will actually own the controlling interest in GRP is a single purpose limited liability company that has not yet been established. Transcript, p. 92.

Recognizing the Committee's concerns about BGH at the adjudicatory proceeding, Brookfield represented that Brookfield Renewable Power, Inc. and its affiliates will "stand behind what they said, and what they said" was "that they would ensure that the terms and conditions of your Certificate would be, you know they would abide by it, or they would ensure that Granite abides by it." Transcript, p. 172. Based upon the representations made by the Joint Applicants and in particular those made by Brookfield, the Committee finds that Brookfield Renewable Power Inc. and its affiliates, including but not limited to BGH, shall be responsible to ensure that BGH and GRP comply with all of the terms and conditions of the Certificate of Site and Facility. In the event that GRP should violate or otherwise fail to comply with the terms and conditions of the Certificate Brookfield and its affiliates shall be financially and managerially responsible to bring GRP into compliance. Brookfield shall also be subject to the enforcement jurisdiction of the Committee as the parent company of BGH and the holder of the controlling interest in GRP.

#### **D. COMPLETION OF CONSTRUCTION REQUIREMENT**

During the adjudicatory proceeding Jason Spreyer, Senior Vice President of Corporate Finance for Brookfield, testified that the Investment Tax Credit available pursuant to §45 of the

Internal Revenue Code was included in the pro forma calculations of Brookfield. Transcript, p. 72. Mr. Spreyer also testified that in the event that the Investment Tax Credit was not available to the Facility, Brookfield would need to re-assess its continued investment in the project. *See*, Transcript, p. 52, 58.

The Committee recognizes that the project will likely qualify for the Investment Tax Credit. The Committee also recognizes that any re-assessment of continuous investment does not necessarily require a conclusion that such investment would cease altogether. However, the Investment Tax Credit appears to be an important factor in Brookfield's calculation of profitability from the project. In order to qualify for the Investment Tax Credit a wind project must be completed on or before December 31, 2012. Therefore, in the event that construction of the Facility is not completed by July 31, 2013, GRP will be required to notify the Committee and show cause why the decommissioning provisions of the Certificate should not be invoked. This condition will provide the Committee and the public with sufficient information to understand the intentions of GRP and to determine whether Brookfield intends to continue to invest in the project. In the event that Brookfield ceases to finance the project and sufficient alternatives are not provided, GRP will be required to decommission the Facility and to remediate the project area to its original condition in accordance with the decommissioning conditions contained within the Certificate.

#### **E. FINANCING CONDITION IN THE ORIGINAL CERTIFICATE**

The original Certificate contained a provision that prohibited GRP from commencing construction until construction financing is completely in place. *See*, Order and Certificate of Site and Facility, p. 4, Site Evaluation Committee Docket No. 2008-04. The Applicants now ask the Committee to recognize that Brookfield's purchase of Noble's interest brings a more

financially secure partner to the project that can finance construction of the project from its existing assets. The Applicants assert, therefore, that the third party financing may not be necessary at all and that the purpose of the condition contained in the original Certificate has been met. The Committee agrees with this assessment once Brookfield has completely closed the purchase of Noble's interest in the project. The Committee acknowledges that upon closing of Brookfield's purchase of Noble's interest in GRP, the financing condition of the original Certificate will be met. In the event that the transaction does not close or Noble's interest in GRP is not transferred to Brookfield, the financing condition of the original Certificate will remain in full force and effect.

**F. ADDITIONAL CONDITIONS**

In addition to the foregoing, GRP, BGH and Brookfield shall maintain their current addresses, telephone numbers and other contact information on file with the Secretary to the Committee. GRP, BGH and Brookfield shall immediately notify the Committee through its Secretary of any change in address or contact information.

GRP, BGH, and Brookfield shall immediately notify the Committee in the event that the Applicants or any of the parent companies or affiliates shall file a bankruptcy or insolvency petition in any jurisdiction, foreign or domestic, or be forced into involuntary bankruptcy or any other proceeding pertaining to debt restructuring or the liquidation of assets.

All conditions of the Order and Certificate of Site and Facility issued on July 15, 2009 in Site Evaluation Committee Docket No 2008-04 not amended by this Decision and Order shall remain in full force and effect.

## VII. CONCLUSION AND ORDER

The Applicants have established by the preponderance of evidence that Brookfield Renewable Power has adequate financial, managerial and technical capabilities to assure the continued funding, management and operation of GRP in continuing compliance with all of the terms and conditions of the Certificate of Site and Facility issued to GRP in Docket No. 2008-04. It should be noted that this Order does not change or modify any of the terms and conditions of the Certificate not expressly amended herein. The Committee maintains the authority to monitor and enforce the terms and conditions of the Certificate. *See*, RSA 162-H: 4, I.

### ORDER

Based upon the foregoing it is hereby:

**Ordered** that the Joint Application is **GRANTED** and the Applicants are hereby authorized to transfer 75% of the equity currently owned by Noble Environmental Power, LLC to Brookfield Renewable Power, Inc. or BAIF Granite Holding, LLC; and,

**Further Ordered** that the Order and Certificate of Site and Facility issued on July 15, 2009, in Site Evaluation Committee Docket No. 2008-04, is amended to provide that Granite Reliable Power, LLC, is not required to obtain the written assent of the Site Evaluation Committee in advance of any change in ownership so long as Brookfield Renewable Power, Inc, or one of its affiliates maintains a controlling interest in Granite Reliable Power, LLC. However, Granite Reliable Power LLC shall provide written timely notice of a change in non-controlling ownership interests on a timely basis to the Site Evaluation Committee; and,

**Further Ordered** that Brookfield Renewable Power, Inc. and its affiliates shall ensure that Granite Reliable Power, LLC, complies with all terms and conditions of the Order and Certificate of Site and Facility issued in Site Evaluation Committee Docket No. 2008-04.

Brookfield Renewable Power and its Affiliates shall be subject, along with Granite Reliable Power, LLC, to the enforcement jurisdiction of the Site Evaluation Committee; and,

**Further Ordered** that if construction of the Facility is not completed by July 31, 2013, Granite Reliable Power, LLC, shall file a notice with the Site Evaluation Committee and show cause as to why the decommissioning provisions of the Order and Certificate of Site and Facility should not be imposed; and,

**Further Ordered** that upon closing of the purchase and sale of Noble Environmental's 75% interest in Granite Reliable Power, LLC., to Brookfield Renewable Power, Inc. or BAIF Granite Holding, LLC, the financing condition contained within the original Order and Certificate of Site Facility shall be deemed to have been met without further order of the Site Evaluation Committee; and,

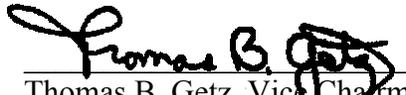
**Further Ordered** that Granite Reliable Power, LLC, Brookfield Renewable Power, Inc. and BAIF Granite Holding, LLC, shall maintain their current addresses, telephone numbers and other contact information on file with the Secretary to the Committee. Granite Reliable Power, Brookfield Renewable Power, Inc. and BAIF Granite Holding, LLC, shall immediately notify the Committee through its Secretary of any change in address or contact information; and,

**Further Ordered** that Granite Reliable Power, Brookfield Renewable Power, Inc. and BAIF Granite Holding, LLC, shall immediately notify the Committee in the event that the Applicants or any of the parent companies or affiliates shall file a bankruptcy or insolvency petition in any jurisdiction, foreign or domestic, or be forced into involuntary bankruptcy or any other proceeding pertaining to debt restructuring or the liquidation of assets; and,

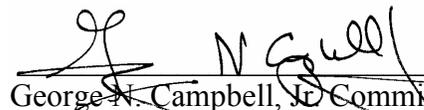
**Further Ordered** that all conditions of the Order and Certificate of Site and Facility issued on July 15, 2009, in Site Evaluation Committee Docket No 2008-04 not amended by this Decision and Order shall remain in full force and effect.

By Order of the Site Evaluation Committee this 8th day of February, 2011.

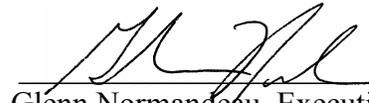
  
Thomas Burack, Chairman  
Commissioner  
Department of Environmental Services

  
Thomas B. Getz, Vice Chairman  
Chairman Public Utilities Commission

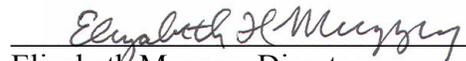
  
Michael Harrington, Staff Engineer  
Public Utilities Commission

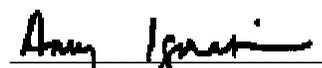
  
George N. Campbell, Jr. Commissioner  
Department of Transportation

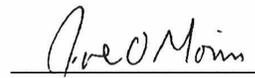
  
Robert Scott, Director  
Air Resources Division  
Department of Environmental Services

  
Glenn Normandeau, Executive Director  
Fish and Game Department

  
Clifton Below, Commissioner  
Public Utilities Commission

  
Elizabeth Muzzey, Director  
NH Division of Historical Resources

  
Amy Ignatius, Commissioner  
Public Utilities Commission

  
Joanne Morin, Director  
Office of Energy & Planning